

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SPACE DATA CORPORATION, ) CV-16-3260-BLF  
)  
PLAINTIFF, ) SAN JOSE, CALIFORNIA  
)  
VS. ) MAY 17, 2018  
)  
ALPHABET INC AND GOOGLE LLC, ) PAGES 1-12  
)  
DEFENDANT. )  
)  
)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE BETH LABSON FREEMAN  
UNITED STATES DISTRICT JUDGE

## A P P E A R A N C E S

FOR THE PLAINTIFF: **BY: SPENCER HOSIE**  
HOSIE RICE LLP  
TRANSAMERICA PYRAMID  
600 MONTGOMERY STREET, 34TH FLOOR  
SAN FRANCISCO, CA 94111

FOR THE DEFENDANT: **BY: LEAH PRANSKY  
MATTHIAS KAMBER**  
KEKER, VAN NEST & PETERS LLP  
633 BATTERY STREET  
SAN FRANCISCO, CA 94111

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

1

SAN JOSE, CALIFORNIA

MAY 17, 2018

2

## P R O C E E D I N G S

3

(COURT CONVENED AT 9:21 A.M.)

09:21:49 4

THE CLERK: CALLING CASE 16-3260. SPACE DATA CORPORATION VERSUS ALPHABET INC. AND GOOGLE, LLC.

09:22:07 6

COUNSEL, PLEASE COME FORWARD AND STATE YOUR APPEARANCES.

09:22:09 7

MR. HOSIE: GOOD MORNING, YOUR HONOR.

09:22:11 8

SPENCER HOSIE, HOSIE RICE, APPEARING FOR THE PLAINTIFF

09:22:14 9

SPACE DATA.

09:22:14 10

THE COURT: GOOD MORNING.

09:22:14 11

MS. PRANSKY: GOOD MORNING, YOUR HONOR.

09:22:16 12

LEAH PRANSKY ON BEHALF OF DEFENDANTS GOOGLE AND ALPHABET.

09:22:20 13

AND WITH ME IS MY COLLEAGUE MATTHIAS KAMBER.

09:22:23 14

THE COURT: ALL RIGHT. THIS IS THE PLAINTIFF'S

09:22:25 15

MOTION FOR SUMMARY JUDGEMENT ON A FAIRLY NARROW POINT. I DO

09:22:28 16

WANT TO HEAR ARGUMENT ON THIS.

09:22:29 17

LET ME JUST START BY SAYING THAT I ACTUALLY AGREE WITH THE

09:22:33 18

PLAINTIFF THAT JUDICIAL ESTOPPEL IS AVAILABLE. I KNOW THAT --

09:22:37 19

I THOUGHT THE PARAMOUNT AND KELLOGG CASES WERE INTERESTING, BUT

09:22:42 20

I'M SATISFIED THAT UNDER THE NINTH CIRCUIT LAW, WHICH THE

09:22:45 21

CIRCUIT LAW WOULD BE APPLIED TO THIS ISSUE EVEN IF THE FEDERAL

09:22:48 22

CIRCUIT WERE ULTIMATELY THE APPELLATE DECISION MAKER, THAT

09:22:53 23

JUDICIAL ESTOPPEL IS AVAILABLE.

09:22:56 24

THAT WAS THE GOOD NEWS FOR YOU, MR. HOSIE. WELL, THAT'S

09:23:01 25

THE WAY IT GOES. I DON'T ACTUALLY SEE THAT CLEAR AND

09:23:06 1 UNMISTAKABLE STATEMENT THAT THE LAW REQUIRES FOR A JUDICIAL  
09:23:10 2 ESTOPPEL.

09:23:12 3 I CERTAINLY THINK THAT IN THE FUTURE, YOU MIGHT MORE  
09:23:19 4 CLEARLY BE ABLE TO ARGUE IT, BUT WE ARE AT THE INITIAL  
09:23:23 5 INFRINGEMENT CONTENTION STAGE, AND SO I LOOKED AT WHAT GOOGLE  
09:23:32 6 ARGUED ON THE CAMPBELL REFERENCE, AND IT WASN'T CLEAR AND  
09:23:40 7 UNMISTAKABLE TO ME THAT AN ESTOPPEL SHOULD ISSUE ON THOSE  
09:23:44 8 REPRESENTATIONS.

09:23:45 9 I AGREE WITH YOU THAT STATEMENTS TO THE PTO WOULD QUALIFY.  
09:23:49 10 SO, YOU KNOW, I WAS REALLY IN LINE WITH YOUR LEGAL ANALYSIS,  
09:23:53 11 BUT OF COURSE ON THE FACTS, IT'S JUST REALLY A MATTER -- AND SO  
09:23:57 12 ACTUALLY WHAT I WOULD BE LOOKING AT HERE IS DENYING IT BECAUSE  
09:24:00 13 YOU HAVEN'T MET YOUR INITIAL BURDEN OF SHOWING CLEAR AND  
09:24:02 14 UNMISTAKABLE, NOT THAT THEY ARE DISPUTED FACTS.

09:24:06 15 AND I MEAN, ULTIMATELY, ALTHOUGH I'M NOT INVITING A  
09:24:13 16 FURTHER SUMMARY JUDGEMENT MOTION, IT MAY ULTIMATELY BE AN IN  
09:24:17 17 LIMINE OR TRIAL EVIDENTIARY PRECLUSION ISSUE THAT COMES UP WHEN  
09:24:21 18 GOOGLE STATES ITS POSITION BEFORE A JURY.

09:24:25 19 MR. HOSIE: YOU KNOW, I APPRECIATE THE COURT'S POINT  
09:24:27 20 AND WE WRESTLED WITH THIS. IT'S AN EARLY SUMMARY JUDGEMENT,  
09:24:30 21 BUT WE THOUGHT IT IMPORTANT TO BRING TO THE COURT'S INTENTION.

09:24:35 22 IN TERMS OF THE INCONSISTENCY, YOUR HONOR, IT'S NOT JUST A  
09:24:38 23 STATEMENT. THE CASES, INCLUDING NEW HAMPSHIRE, SPEAK OF  
09:24:41 24 POSITIONS, AND IT HAS BEEN GOOGLE'S POSITION, EVERYWHERE BUT  
09:24:44 25 HERE, THAT THAT PATENT IS PERFECTLY VALID.

09:24:44 1 THE COURT: I UNDERSTAND.

09:24:46 2 MR. HOSIE: AND THE ONLY PLACE IT'S INVALID, IS IN

09:24:48 3 THIS COUNTRY SIMPLY BECAUSE WE OWN IT.

09:24:50 4 HOW CAN THAT BE? THAT IS ABOUT AS INCONSISTENT AS

09:24:54 5 INCONSISTENT GETS.

09:24:55 6 THE COURT: SO THAT ARGUMENT TO A JURY WOULD HAVE A

09:24:57 7 LOT OF EMOTIONAL APPEAL. SO THAT'S WHY I HAVE TO BE CAREFUL AT

09:25:01 8 THE LEGAL LEVEL WHETHER I LET YOU DO IT.

09:25:02 9 SO JUDICIAL ESTOPPEL IS VERY TECHNICAL.

09:25:06 10 MR. HOSIE: INDEED.

09:25:06 11 THE COURT: AND, YOU KNOW, CLEAR AND UNMISTAKABLE,

09:25:09 12 THAT'S PRETTY STRONG LANGUAGE.

09:25:10 13 AND THE PROBLEM THAT I HAVE WITH WHAT YOU ARE SAYING IS

09:25:13 14 THAT IT'S EMOTIONALLY COMPELLING WHAT YOU SAY, AND I THINK WHAT

09:25:17 15 YOU SAY FORMS THE FOUNDATION OF WHY WE HAVE JUDICIAL ESTOPPEL.

09:25:22 16 BUT THEN WE GO THE NEXT STEP OF THE PROOF, AND MARCHING

09:25:25 17 DOWN THE ROAD TO SEE WHERE WE LAY OUT EXACTLY THE POSITION.

09:25:29 18 AND SO THAT'S WHERE GOOGLE'S ARGUMENT ON WHAT THEY REPRESENT

09:25:35 19 ABOUT CAMPBELL, AND WHAT IT INCLUDED AND WHAT IT DIDN'T, IS A

09:25:37 20 CONCERN.

09:25:38 21 IT ALSO SEEMED TO ME, MR. HOSIE, THAT YOU WERE TAKING THE

09:25:41 22 POSITION THAT ANY IDENTIFICATION OF PRIOR ART REFERENCES IN THE

09:25:47 23 PATENT APPLICATION WOULD LEAD TO THE CONCLUSION THAT ANY

09:25:52 24 COMBINATION. AND AS WE KNOW, WE DO THE MATH ON THESE, THAT ANY

09:25:57 25 COMBINATION OF ANY OF THOSE REFERENCES IS A JUDICIAL ESTOPPEL,

09:26:02 1 EVEN IF GOOGLE DIDN'T SPECIFICALLY ARGUE NONOBVIOUSNESS BY A  
09:26:07 2 PARTICULAR COMBINATION.

09:26:09 3 DID I READ THAT CORRECTLY?

09:26:11 4 MR. HOSIE: YOU DID, YOUR HONOR.

09:26:12 5 THE COURT: THAT WAS PRETTY BROAD, I THOUGHT.

09:26:16 6 MR. HOSIE: BUT IF GOOGLE FILES PATENT APPLICATIONS

09:26:18 7 HERE AND EVERYWHERE IN THE WORLD AND SAYS THERE ARE FOUR

09:26:21 8 REFERENCES, AND THEY DON'T ANTICIPATE, AND THEY DON'T RENDER

09:26:25 9 OBVIOUS, AND IF THEY DO THAT THROUGH A SWORN INVENTOR'S

09:26:29 10 DECLARATION, THAT IS A POSITION.

09:26:30 11 THE COURT: SO GOOGLE HAS ANOTHER ARGUMENT ON  
09:26:32 12 INVENTOR'S DECLARATION, I DIDN'T KNOW IF THAT WAS TRUE OR NOT,  
09:26:37 13 THAT IT'S MERELY A SUBJECTIVE BELIEF THAT MY INVENTION IS COOL  
09:26:42 14 AND INVENTIVE AND YOU OUGHT TO IMPROVE IT.

09:26:45 15 I DON'T KNOW THAT IT'S REALLY ONLY THAT, BUT I THINK  
09:26:47 16 THAT'S WHAT GOOGLE IS SAYING.

09:26:48 17 MR. HOSIE: THEY SAY THAT EXACTLY IN THE BRIEF, THEY  
09:26:48 18 SAY IT'S JUST A SUBJECTIVE THAT THEY INCLUDE.

09:26:53 19 BUT YOUR HONOR, IF THEY THOUGHT REFERENCES DID ANTICIPATE  
09:26:56 20 AND RENDER OBVIOUS, THEY COULDN'T MOVE THEIR PROSECUTION  
09:27:00 21 FORWARD IF THEY DID. AGAIN AND AGAIN, OVER YEARS AND IN DOZENS  
09:27:03 22 OF JURISDICTIONS, AND IT ONLY CHANGED IN THIS COUNTRY GIVEN OUR  
09:27:06 23 RECAPTURING OF THE PATENT IN THE SUMMARY JUDGEMENT MOTION.

09:27:09 24 UNTIL JANUARY, THEY WERE PROSECUTING THIS ABROAD IN MANY  
09:27:11 25 JURISDICTIONS AS A PERFECTLY PROPER GOOGLE INVENTION. EVEN

09:27:15 1 THOUGH THEY CONCEDED THAT, IN THIS COUNTRY, IT WAS OUR  
09:27:17 2 INVENTION. HOW CAN THAT BE?

09:27:20 3 THE COURT: YEAH, I UNDERSTAND.

09:27:23 4 OF COURSE, I'VE NEVER BEEN TO THE PTO MYSELF, BUT IF THERE  
09:27:26 5 ARE A NUMBER OF PRIOR ART REFERENCES IN THE APPLICATION, WHICH  
09:27:31 6 THERE ALWAYS ARE.

09:27:32 7 MR. HOSIE: YES.

09:27:32 8 THE COURT: AND THE INVENTOR IS ARGUING TO PTO THAT  
09:27:39 9 THERE IS NO -- NONE OF THESE RENDER THE INVENTION OBVIOUS OR,  
09:27:45 10 NO COMBINATION RENDERS IT OBVIOUS AND NONE ANTICIPATES, YOU ARE  
09:27:49 11 SAYING THAT THAT IS, IN EFFECT, A STATEMENT THAT NO COMBINATION  
09:27:55 12 OF THOSE REFERENCES.

09:27:56 13 MR. HOSIE: ONE HUNDRED PERCENT. BECAUSE THAT'S WHAT  
09:27:58 14 THEY'RE SAYING. THEY ARE SAYING HERE ARE FOUR PRIOR ART  
09:28:01 15 REFERENCES, AND OUR PATENT, OUR INVENTION IS PATENTABLE OVER  
09:28:05 16 THESE REFERENCES.

09:28:06 17 THAT'S WHAT THEY TOLD THE EU, CHINA, BRAZIL, AUSTRALIA,  
09:28:10 18 CANADA, ET CETERA. AND THAT'S WHAT THEY TOLD THE U.S. PTO  
09:28:13 19 UNTIL SUDDENLY WE GOT THE PATENT BACK AND SUED THEM ON IT. SO  
09:28:17 20 SUDDENLY IT WAS WHITE FOR GOOGLE AND BLACK FOR US, SIMPLY  
09:28:20 21 BECAUSE WE OWNED IT.

09:28:22 22 SO YOUR HONOR, I APPRECIATE IT MAY WELL BE PREMATURE, IT'S  
09:28:26 23 VERY MUCH LIKE THE MASTEROBJECTS CASE WHICH WAS BRIEFED WHICH  
09:28:30 24 WE ALSO HAD SOME INVOLVEMENT IN.

09:28:32 25 THE COURT: LET ME HEAR FROM GOOGLE, BECAUSE DOWN THE

09:28:35 1 ROAD, I WANT TO UNDERSTAND THIS ISSUE, I THINK IT'S COMING  
09:28:37 2 BACK.

09:28:38 3 MS. PRANSKY: THANK YOU, YOUR HONOR.

09:28:38 4 I'M GOING TO ADDRESS, FIRST, THE POINT ABOUT THE  
09:28:40 5 INCONSISTENT POSITION. I WOULD LIKE TO COME BACK TO THE ISSUE  
09:28:43 6 OF THE LAW.

09:28:44 7 BUT YOU ARE RIGHT THAT GOOGLE HAS MADE NO CLEAR AND  
09:28:47 8 UNMISTAKABLE INCONSISTENT POSITION IN THIS CASE WITH WHAT IT  
09:28:50 9 TOLD THE PTO.

09:28:52 10 WHAT IT TOLD THE PTO IS THAT CAMPBELL DID NOT DISCLOSE  
09:28:55 11 USING ALTITUDE ADJUSTMENTS TO CONTROL THE HORIZONTAL POSITION  
09:28:59 12 OF THE BALLOON. AND THAT'S WHAT GOOGLE HAS SAID IN ITS  
09:29:03 13 INVALIDITY CONTENTIONS. IT'S DIRECTLY CONSISTENT WITH ITS  
09:29:05 14 ARGUMENT IN THIS CASE.

09:29:06 15 NOW SPACE DATA TRIES TO TAKE GOOGLE'S PROSECUTION OF THE  
09:29:09 16 PATENT AND TURN THAT INTO OTHER AFFIRMATIVE ARGUMENTS AS TO  
09:29:13 17 OTHER ART. AND THAT'S JUST NOT WHAT THOSE REPRESENTATIONS ARE.

09:29:18 18 SPACE DATA DOES NOT UNDERSTAND WHAT AN IDS IS AND IT  
09:29:22 19 DOESN'T UNDERSTAND WHAT THE INVENTOR'S DECLARATION IS AND IT  
09:29:25 20 TRIES TO TIE THOSE TOGETHER.

09:29:27 21 THE COURT: I THINK MR. HOSIE PROBABLY UNDERSTANDS  
09:29:28 22 PERFECTLY WELL.

09:29:29 23 MR. HOSIE: I WOULD LIKE TO THINK I DO.

09:29:30 24 MS. PRANSKY: WELL, SPACE DATA SAYS AN INVENTOR'S  
09:29:33 25 DECLARATION IS AN AFFIRMATION THAT THE ART LISTED IS NOT

09:29:35 1 DISABLING, THAT IT DOESN'T ANTICIPATE OR RENDER OBVIOUS THE  
09:29:39 2 CLAIMS.

09:29:39 3 THE COURT: SO THAT'S A BIG STATEMENT TO -- AND  
09:29:41 4 THAT'S WHY I WAS CONCERNED, BECAUSE IN MANY OF THESE PATENTS,  
09:29:46 5 THE LIST OF PART REFERENCES CAN BE AS LONG AS YOUR ARM.

09:29:49 6 AND SO THEN TO SAY TO ALL FUTURE PATENT APPLICANTS, PUT ON  
09:29:55 7 THEM ESSENTIALLY, THE BURDEN OF RUNNING AN OBVIOUSNESS ANALYSIS  
09:29:58 8 OF EVERY COMBINATION. SO IF THERE ARE FIFTY PRIOR ART  
09:30:02 9 REFERENCES, I CAN'T DO THE MATH IN MY HEAD, BUT THE NUMBER OF  
09:30:07 10 COMBINATIONS IS EXPONENTIAL. AND THAT DOESN'T SEEM TO BE  
09:30:11 11 CORRECT.

09:30:14 12 GIVING AN EXAMPLE OF FOUR, IS ALMOST, I THINK IT OBSCURES  
09:30:20 13 THE REAL PROBLEM WITH THAT KIND OF ARGUMENT, BECAUSE IT'S SO  
09:30:24 14 FEW. AND I DON'T KNOW HOW MANY THERE WERE IN THIS CASE, BUT  
09:30:27 15 IT'S A BIG -- BUT IT'S A BIG STATEMENT ABOUT WHAT  
09:30:31 16 REPRESENTATIONS OF OVERLY PRIOR ART REFERENCES MEAN.

09:30:37 17 SO I HAVE TO LOOK AT THIS FROM THE PERSPECTIVE OF THERE  
09:30:40 18 BEING FIFTY. AND WE ALL KNOW PATENTS LIKE THAT. AND YOU KNOW,  
09:30:43 19 IF THERE ARE FIFTY PRIOR ART REFERENCES, MAYBE THAT'S A GOOD  
09:30:45 20 SIGN THAT IT'S HEADED FOR NOWHERE. BUT I DON'T KNOW, I'M SURE  
09:30:50 21 PLENTY GET ISSUED.

09:30:51 22 SO THAT'S, YOU KNOW, I MEAN I THINK YOU REALLY HAVE ME ON  
09:30:54 23 THAT ARGUMENT IS THAT IT JUST -- THAT'S TOO BIG A STATEMENT TO  
09:30:58 24 MAKE.

09:30:58 25 MS. PRANSKY: I THINK THAT'S TRUE, YOUR HONOR.

09:31:00 1 AND I'M NOT SURE WHERE THE NUMBER FOUR COMES FROM, I'M  
09:31:03 2 LOOKING AT SPACE DATA'S BRIEF RIGHT NOW, AND THEY HAVE AT LEAST  
09:31:06 3 LISTED AT LEAST 15 HERE. AND --  
09:31:09 4 THE COURT: WE JUST HAVE TO LOOK AT THE FACE OF THE  
09:31:11 5 PATENT, THAT WILL TELL US, WON'T IT?  
09:31:13 6 MS. PRANSKY: I'M NOT SURE IF ALL OF THE REFERENCES  
09:31:15 7 LISTED IN THE IDS ACTUALLY APPEAR ON THE FACE OF THE PATENT,  
09:31:18 8 THAT MAY BE TRUE, BUT THERE ARE TWO IDS STATEMENTS IN THIS  
09:31:21 9 CASE.  
09:31:21 10 BUT I THINK THE OTHER ISSUE ABOUT THE IDS STATEMENTS IS AN  
09:31:25 11 INVENTOR DOESN'T HAVE AN OBLIGATION TO GO OUT AND SEARCH FOR  
09:31:28 12 PRIOR ART, AND IT DOESN'T HAVE AN OBLIGATION TO GO TO THE PTO  
09:31:31 13 AND SAY, I HAVE LOOKED AT ALL THE PRIOR ART, I'VE ANALYZED IT  
09:31:34 14 AND I KNOW THAT THESE CLAIMS ARE NOT OBVIOUS OR NOT. THE  
09:31:36 15 INVENTOR HAS AN OBLIGATION TO, IF THEY KNOW A PRIOR ART THAT  
09:31:41 16 THEY THINK MIGHT BE MATERIAL TO PATENTABILITY, PUT IT IN FRONT  
09:31:44 17 OF THE PTO SO THE EXAMINER CAN MAKE THAT DECISION.  
09:31:47 18 AND SO WHEN YOU LIST SOMETHING ON AN IDS UNDER 37 CFR 156,  
09:31:54 19 YOU ARE ACTUALLY SAYING THIS MIGHT BE MATERIAL, AND MATERIAL  
09:31:56 20 MEANS THAT IT'S A PRIMA FACIE CASE OF UNPATENTABILITY.  
09:32:00 21 IF YOU ACTUALLY THOUGHT THE ART HAD NO CHANCE OF RENDERING  
09:32:03 22 THE PATENT OBVIOUS OR ANTICIPATED, YOU WOULD HAVE NO OBLIGATION  
09:32:07 23 TO PUT IT ON THE IDS AT ALL. SO IT'S NOT REALLY WHAT SPACE  
09:32:11 24 DATA IS TRYING TO SAY HERE.  
09:32:13 25 AND I WILL MAKE ANOTHER POINT WHICH IS THAT THE INVENTOR'S

09:32:16 1 DECLARATION IS NOT ATTACHED TO THE IDS STATEMENTS. AND THE  
09:32:18 2 OBLIGATIONS UNDER 156 GO TO BOTH THE INVENTOR AND ALSO EVERYONE  
09:32:24 3 ELSE WHO PARTICIPATES IN THE APPLICATION, THE LAWYERS,  
09:32:27 4 ET CETERA.

09:32:27 5 THE INVENTORS DON'T NECESSARILY KNOW THE WHAT THE LAWYERS  
09:32:33 6 ARE PUTTING ON THE IDS STATEMENT. AND THE IDS STATEMENT  
09:32:35 7 DOESN'T GET SUBMITTED NECESSARILY AT THE SAME TIME AS THE  
09:32:38 8 INVENTOR'S DECLARATION.

09:32:38 9 IN THIS CASE, FOR EXAMPLE, THERE WAS A SECOND IDS THAT GOT  
09:32:41 10 SUBMITTED IN MAY, AND THE INVENTOR'S DECLARATION THAT GETS  
09:32:44 11 SUBMITTED EARLIER.

09:32:45 12 AND THE INVENTOR'S DECLARATION IS REALLY NOT A DECLARATION  
09:32:48 13 ABOUT NOVELTY, IT'S A DECLARATION ABOUT INVENTORSHIP. I  
09:32:51 14 ACTUALLY PARTICIPATED IN CONCEIVING OF THESE THINGS. I  
09:32:54 15 ACTUALLY WAS IN THE LAB, I WASN'T A BYSTANDER, I WAS WORKING ON  
09:32:58 16 THIS. I DIDN'T DERIVE IT FROM SOMEBODY ELSE. I WAS THERE  
09:33:01 17 DOING THIS INVENTION. IT'S NOT ABOUT REPRESENTING THEM AS  
09:33:04 18 NOVEL.

09:33:04 19 THE COURT: RIGHT, RIGHT.

09:33:06 20 SO YOU WANTED TO COME BACK TO THE ISSUE OF THE LAW. I  
09:33:09 21 DON'T KNOW THAT I'M GOING TO ACTUALLY NEED TO RESOLVE THAT  
09:33:11 22 ISSUE. I WOULD DECLINE TO RULE ON IT AT THIS POINT FORMALLY,  
09:33:17 23 I'VE GIVEN YOU MY THOUGHTS ON IT.

09:33:19 24 AND WHAT I THINK I'M GOING TO DO IN THIS CASE IS TO MAKE A  
09:33:24 25 FAIRLY SIMPLE FINDING THAT, AT THIS JUNCTURE, SPACE DATA HAS

09:33:28 1 NOT MET ITS MOVING BURDEN.

09:33:30 2 AND AS I SAY, JUDICIAL ESTOPPEL CAN BE RAISED, I THINK AT

09:33:35 3 A LATER POINT, AND ALSO GOOGLE WILL BE MAKING MORE DEFINITIVE

09:33:42 4 STATEMENTS ABOUT ITS CASE IN THE FUTURE.

09:33:43 5 MR. HOSIE: INDEED, YOUR HONOR. AND THAT WILL

09:33:45 6 SHARPEN THIS DISPUTE ACUTELY.

09:33:47 7 THE COURT: IT WILL. ALL RIGHT.

09:33:48 8 MR. HOSIE: THANK YOU VERY MUCH.

09:33:48 9 THE COURT: WELL, I APPRECIATE BOTH OF YOU COMING IN.

09:33:50 10 AND MR. HOSIE, ALTHOUGH IT'S LABORIOUS TO EDUCATE ME THIS

09:33:55 11 WAY, OF COURSE HAVING YOUR JUDGE KNOW AN ISSUE IS LURKING IS

09:34:00 12 ALWAYS VALUABLE.

09:34:00 13 MR. HOSIE: THAT'S ONE OF THE REASONS WE FILED,

09:34:02 14 YOUR HONOR.

09:34:02 15 THE COURT: THANK YOU.

09:34:06 16 (THE PROCEEDINGS WERE CONCLUDED AT 9:34 A.M.)

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3  
4 **CERTIFICATE OF REPORTER**  
5  
6  
7

8 I, THE UNDERSIGNED OFFICIAL COURT  
9 REPORTER OF THE UNITED STATES DISTRICT COURT FOR  
10 THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH  
11 FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY  
12 CERTIFY:

13 THAT THE FOREGOING TRANSCRIPT,  
14 CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND  
15 CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS  
16 SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS  
17 HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED  
18 TRANSCRIPTION TO THE BEST OF MY ABILITY.

19  
20  
21  
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23  
24



25 SUMMER A. FISHER, CSR, CRR  
CERTIFICATE NUMBER 13185

DATED: 5/19/18